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which it was alleged the commissioner of accounts made in his settlement of the accounts of a committee of an insane person, but stating no grounds of fraud, accident, or mistake, is not sufficient to reopen the settlement.

[Ed. Note.—For other cases, see *Insane Persons*, Cent. Dig. §§ 64-67; Dec. Dig. § 42.* 7 Va.-W. Va. Enc. Dig. 690; 14 Va.-W. Va. Enc. Dig. 559; 15 Va.-W. Va. Enc. Dig. 507.]

Error to Court of Law and Chancery of City of Norfolk.

Action by Lillian Perry, administratrix, against R. M. Johnston, committee, and other. From a judgment for plaintiff, defendant brings error. Affirmed.

R. R. Hicks, of Norfolk, for plaintiffs in error.

Jas. G. Martin, of Norfolk, for defendants in error.

BLACKSTONE MFG. CO. *v.* ALLEN.

June 10, 1915.

[85 S. E. 568.]

1. Logs and Logging (§ 3*)—Sale of Standing Timber—Title—Forfeiture.—A contract of sale of standing timber to cut and remove does not pass absolute title to the timber until the purchaser cuts and removes the same within the time allowed by the contract.

[Ed. Note.—For other cases, see *Logs and Logging*, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 220; 14 Va.-W. Va. Enc. Dig. 1024; 15 Va.-W. Va. Enc. Dig. 1005.]

2. Logs and Logging (§ 3*)—Sale of Standing Timber—Contracts—Construction—"The Yearly Interest on the Purchase Price."—A contract of sale of standing timber, which gives the purchaser seven years within which to cut and remove the timber, and which gives him an additional three years, or so much as he may desire, provided he pays "the yearly interest on the purchase price" of the timber, provides for an extension period; but the phrase, "the yearly interest on the purchase price" means the interest for one year on the price and to obtain an extension the purchaser must pay interest for one year.

[Ed. Note.—For other cases, see *Logs and Logging*, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 220; 14 Va.-W. Va. Enc. Dig. 1024; 15 Va.-W. Va. Enc. Dig. 1005.]

3. Logs and Logging (§ 3*)—Sale of Standing Timber—Extension of Time—Conditions—Waiver.—A grantor in a contract of sale of standing timber to be cut and removed within a specified time, and an additional time given on the purchaser paying yearly interest on the price, may waive payment of the yearly interest both as to time

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

and amount; but a waiver must be established by evidence which is not done by proof of correspondence between the parties wherein the purchaser insisted on payment of the yearly interest to extend the time for a year.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 3 Va.-W. Va. Enc. Dig. 425; 14 Va.-W. Va. Enc. Dig. 251; 15 Va.-W. Va. Enc. Dig. 215.]

4. Logs and Logging (§ 3*)—Sale of Standing Timber—Contracts—Construction.—A contract of sale of standing timber, which provides that the timber shall be cut and removed within a specified period, and which gives to the purchaser an additional period of three years, provided he pays the yearly interest on the price of the timber, requires the purchaser to apply for an extension of the time for the cutting and removal of timber if he desires, and to pay or tender the interest, and the grantor may not demand the consideration for an extension of the period until the original period has ended.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 3 Va.-W. Va. Enc. Dig. 425; 14 Va.-W. Va. Enc. Dig. 251; 15 Va.-W. Va. Enc. Dig. 215.]

5. Logs and Logging (§ 3*)—Sale of Standing Timber—Removal after Termination of Period—Damages—Extension—Instructions.—Where a purchaser of standing timber to be cut and removed within a specified period, or an extended period on compliance with conditions, did not comply with the conditions, but after the termination of the specified period removed timber or logs, or the manufactured products thereof, and the grantor, seeking to recover damages therefor, established the stumpage value of standing timber, and the value of logs cut down and in place, or hauled to mills, and when manufactured into merchantable forms, an instruction that all of the timber not removed within the specified period remained the property of the grantor, and that the measure of damages was the value of the lumber at the time of the taking and carrying away not exceeding the damages demanded, was sufficient.

[Ed. Note.—For other cases, see Logs and Logging, Cent. Dig. §§ 6-12; Dec. Dig. § 3.* 13 Va.-W. Va. Enc. Dig. 220; 14 Va.-W. Va. Enc. Dig. 1024; 15 Va.-W. Va. Enc. Dig. 1005.]

Error to Circuit Court, Lunenburg County.

Action by L. E. Allen against the Blackstone Manufacturing Company. There was a judgment for plaintiff, and defendant brings error. Affirmed.

W. Moncure Gravatt, of Blackstone, and *E. P. Buford*, of Lawrenceville, for plaintiff in error.

McNeill, Hudgins & Ozlin, of Richmond, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.